
OLR Bill Analysis

sSB 361 (File 742, as amended by Senate "A")*

AN ACT PREVENTING THE USE OF CREDIT SCORES BY CERTAIN EMPLOYERS IN HIRING DECISIONS.

SUMMARY:

This bill prohibits employers and their agents, representatives, or designees from requiring an employee or prospective employee to consent to a request for a credit report as a condition of employment. The prohibition does not apply when the (1) employer is a financial institution, (2) report is required by law, (3) employer reasonably believes the employee committed a violation of the law related to the employee's job, or (4) report is substantially related to the employee's current or potential job or the employer has a bona fide purpose to request or use information in the report that is substantially job-related and is disclosed to the employee or applicant in writing.

The bill allows an employee or prospective employee to file a complaint about a violation of the bill's provisions with the labor commissioner. The commissioner must conduct an investigation and make findings within 30 days. If the findings warrant, the commissioner must hold a hearing. Violators face a \$300 civil penalty for each violation. At the request of the labor commissioner, the attorney general must initiate a civil lawsuit to recover the penalties. Any amount recovered must be deposited in the General Fund.

*Senate Amendment "A" (1) adds the provisions on credit reports substantially related to the employee's job; (2) broadens the definition of "financial institution" to include an insurance company, investment advisor, broker-dealer, or entity registered with the federal Securities and Exchange Commission; and (3) requires the commissioner to investigate and make findings on a complaint within 30 days and hold a hearing if warranted, instead of requiring a hearing at a party's request.

EFFECTIVE DATE: October 1, 2011

CREDIT REPORT

Under the bill, a credit report contains information about the employee's credit score, credit account balances, payment history, or savings or checking account numbers and balances.

EMPLOYERS AND EMPLOYEES

The bill applies to any employer engaged in business with at least one employee, including the state or a political subdivision. But the bill's provisions do not apply to financial institutions, which it defines as an entity or affiliate of a state bank and trust company; national banking association; state or federally chartered savings bank, savings and loan association, or credit union; insurance company; investment advisor; broker-dealer; or entity registered with the federal Securities and Exchange Commission.

An employee is anyone engaged in service to an employer in a business.

SUBSTANTIALLY RELATED

Under the bill, information in a credit report is "substantially related to the employee's current or potential job" when the position:

1. is a managerial position that involves setting the direction or control of a business, division, unit or agency of a business;
2. involves access to customers', employees', or the employer's personal or financial information other than customary retail transaction information;
3. involves a fiduciary responsibility to the employer, including authority to make payments, collect debts, transfer money, or enter contracts;
4. provides an expense account or corporate debit or credit card;
5. provides access to confidential or proprietary business information;

6. provides access to information (such as a formula, pattern, compilation, program, device, method, technique, process, or trade secret) which has actual or potential independent economic value because it is not generally known or readily ascertainable by proper means by others who could obtain economic value from the information and there are reasonable efforts under the circumstances to keep the information secret; or
7. involves access to the employer's nonfinancial assets of at least \$2,005 in value including museum and library collections and prescription drugs and pharmaceuticals.

BACKGROUND

Legislative History

The Senate referred the bill (File 58) to the Appropriations Committee, which voted it out favorably but deleted the requirement that funds recovered from civil actions be credited to a separate, nonlapsing Labor Department appropriation for current expenses.

Federal Fair Credit Reporting Act (FCRA)

FCRA contains a number of requirements regarding the accuracy, fairness, and privacy of information in the files of consumer reporting agencies (CRA). It allows CRAs to issue "consumer reports" in a number of circumstances, but contains special provisions for situations where the consumer or prospective employee does not initiate the transaction (i.e., for employment background screening). Among other things, FCRA prohibits an agency from furnishing a consumer report, which may include credit information, about a job candidate or employee without getting the person's permission. If the employer or prospective employer decides to use information in the consumer report to deny a job application, refuse to promote an employee, or take any other "adverse action," the employer must give the job candidate or employee a copy of the consumer report and a summary of the person's rights under FCRA before taking the action.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 7 Nay 4 (03/01/2011)

Appropriations Committee

Joint Favorable Substitute

Yea 28 Nay 19 (04/25/2011)